

## IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA GREENVILLE DIVISION

Plaintiff, §
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<b>§</b>
vs. § CIVIL ACTION NO. 6:09-01376-HFF-WMC
§
THE UNITED STATES OF AMERICA; §
KAYE G. HEARN, Chief Judge; §
KENNETH A. RICHSTAD, Clerk; V. §
CLAIRE ALLEN, Deputy Clerk; §
BRUCE H. WILLIAMS, JUDGE; J. §
CURETON, Judge; JEAN H. TOAL, §
Chief Justice; JOHN H. WALLER, JR., §
Justice; JAMES E. MOORE, Justice; §
E.C. BURNETT, III, Justice; COSTA M. §
PLEICONES, Justice, individually and in §
their official capacities, §
Defendants. §

## **ORDER**

This case was filed as a Federal Tort Claims Act (FTCA) action. Plaintiff is proceeding prose. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that the complaint be dismissed with prejudice and without issuance and service of process. The Magistrate Judge also recommends that the complaint be deemed a "strike" for purposes of 28 U.S.C. § 1915(g). The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court.

Mathews v. Weber, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo

determination of those portions of the Report to which specific objection is made, and the Court may

accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or

recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on June 24, 2009, and the Clerk of Court entered

Plaintiff's objections to the Report on July 14, 2009. On page fifteen of Plaintiff's thirty-three page

submission, Plaintiff requests that the Court allow him to correct the errors in his pleading.

Construed liberally, the Court views this as a motion to amend pursuant to Rule 15(a) of the Federal

Rules of Civil Procedure. Thus, through no fault of the Magistrate Judge, this case is hereby

**REFERRED** to the Magistrate Judge for further proceedings.

IT IS SO ORDERED.

Signed this 23rd day of July, 2009, in Spartanburg, South Carolina.

s/ Henry F. Floyd

HENRY F. FLOYD

UNITED STATES DISTRICT JUDGE

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